Exhibit J

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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JEAN LIN,

Plaintiff,

-against- Index No:

07-CV-3218

METROPOLITAN LIFE INSURANCE COMPANY,

Defendant.

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EXAMINATION BEFORE TRIAL of the Defendant, DAVID CLAIN, M.D., taken by the Plaintiff, held at the offices of Trief & Olk, 150 East 58th Street, 34th Floor, New York, New York 10155, on May 28, 2008, at 10:05 a.m., before a Notary Public of the State of New York.

APPEARANCES:

TRIEF & OLK
Attorneys for Plaintiff
150 East 58th Street, 34th Floor
New York, New York 10155
BY: Ted Trief, ESQ.

1 METLIFE PLAZA
Attorneys for Defendant
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BY: Tomasita Sherer, Senior Counsel
Law Department

ALSO PRESENT:

Eric Dinnocenzo

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties hereto, that:

All rights provided by the C.P.L.R., and Part 221 of the Uniform Rules for the Conduct of Depositions, including the right to object to any question, except as to form, or such other irregularity that would be waived if not interposed, or to move to strike any testimony at this examination is reserved.

The failure to object to any question, or to move to strike any testimony at this examination, except as to form or other irregularity shall not be a bar or waiver to make such motion at, and is reserved to, the time of trial of this action.

An attorney shall not interrupt the deposition for the purpose of communicating with the deponent unless all parties consent or the communication shall be stated clearly for the record.

This deposition shall be sworn to by the witness being examined before a Notary

Public other than the Notary Public before whom this examination was begun, but the failure to do so or to return the original of this deposition to counsel shall not be deemed a waiver of the rights provided by Rule 3116 of the C.P.L.R. and shall be controlled thereby. The filing of the original of this deposition is waived.

IT IS FURTHER STIPULATED, that a copy of this examination shall be furnished to the attorney for the witness being examined without charge.

DAVID CLAIN, M. D., the witness herein, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY
MR. TRIEF:

Q. State your name for the record, please.
A. Dr. David Clain.
Q. State your address for the record, please.
A. 19 Strathmore Road, Great Neck, New York 11023
Q. Good morning.
A. Morning.
Q. My name is Ted Trief, and I represent the Lin family. I will be asking you some questions this morning. The first thing I want to tell you is, if you intend to answer my questions "yes" or "no," would you be so kind as to say "yes" or "no"?
A. Right. I understand that.
Q. If you understand the question before I complete it, still allow me to complete it before you answer it, so that we're not

D. Clain, M.D.

other members of his family should be tested and so on and so on and so on.

There are probably a lot of things to talk about, all of which I always document when I see the patient and request upon the patient, and that all involves, in the case of hepatitis -- are we talking about hepatitis B here or just general?

Q. We are talking about hepatitis B.

A. In the case of hepatitis B because it's a life-long infection for the rest of the person's life. I tell every patient that.

Q. When do you tell them that?

A. At the very first visit.

Q. So, at the first visit, you educate them?

A. Well, when I say "the first visit," the first visit when I have the -- all the evidence together.

Q. Do you tell them the same thing in each and every visit?

A. Not necessarily everything at every visit, but I would check out whether they had followed up with some of the questions about

D. Clain, M.D.

their family and I would remind them to return in whatever period of time was appropriate to be re-tested so that all of this can be re-evaluated because hepatitis B is a fluctuating disease.

Q. But I assume that the person who had been successfully treated with hepatitis B would be following with you, correct?

A. If they're so told, yes.

Q. Well, you would so tell them, correct?

A. Of course.

Q. If them listened to you, they would follow with you?

A. Not always, but, yes, hopefully. Most of them do.

Q. When they keep following with you, they come every six months, every year, every two years, how often?

A. If they're on treatment, every four months, three to four months. If they've had successful treatment or never required treatment, every six months.

Q. I was referring to either successful treatment or never required treatment, so it's

D. Clain, M.D.

every six months?

A. Yes.

Q. Do you, then, treat them every six months?

A. This is an ongoing treatment, to follow their disease. You could call it management or treatment or whatever you'd like.

Q. I'm again using what Dr. Clain uses as a definition.

A. I don't use such a definition.

Q. Remember that instruction? Even if you know my question before you're clear and you should speak over me, we're going to have a problem with the reporter. So, let's slow down a little bit. There's no rush?

MS. SHERER: I just ask that you allow him to finish his answer, too.

MR. TRIEF: Well, I did, but he actually spoke over me that time.

Q. Doctor, I'm asking you to talk to me in terms of a patient who has been successfully treated for hepatitis B and is now seeing you every six months.

Is that something you understand, that

D. Clain, M.D.

concept?

A. Yes.

Q. When they come back to you after successful treatment every six months, is each six months' visit with you something that you consider treatment?

MS. SHERER: Objection to the form. Asked and answered.

A. I've answered this a number of times, and I think this is a purely semantic statement, whether you call it treatment or management. But it's part of the treatment with the patient because you treat a patient who has hepatitis B forever.

Q. So, the answer is you consider it treatment?

A. Yes.

Q. Okay. That's what I need to know.

When you, on Page 2 of your report, refer to Mr. Lin having visited Dr. Kam for his continued treatment of hepatitis B after completion of treatment with interferon in 1999, is the reference to treatment in that report the follow-up visits without any

treated and so on, all of which are confining factors in the incidents of liver cell cancer.

(Whereupon, the referred to place was read back by the Reporter.)

MR. TRIEF: I move to strike the part that's not responsive.

MS. SHERER: I move to renew.

MR. TRIEF: Off the record.

(Whereupon, an off-the-record discussion was held.)

Q. What is the incidence of liver cancer in the general public?

A. I don't have a number.

Q. Approximately.

A. It's very low.

Q. Tell me.

A. I don't know.

Q. One in a million, one in a thousand, one in a hundred?

A. I don't know. I don't know the number.

Q. What is the incidence rate of liver cancer for those who have been successfully treated for hepatitis B without cirrhosis?

A. It's a few times increased, like three

times increased. It varies in different populations, in different places. It isn't the same here and there. It depends on where the study was done, and there aren't that many studies.

But there is a severalfold increase in liver cancer. I can refer you -- and I refer to that, I think, in one of my comments in the report, is that, if you rook at the AASLD Guidelines on the hepatocellular cancer, they actually quote you papers based on their Asian patients who are not cirrhotic, have no activity, either treated or untreated, are inactive, have an increased instance of hepatocellular carcinoma.

They quote three or four papers. If you look at this AASLD Guidelines, they're quoted here, and they're listed in the paper.

MS. SHERER: Should we mark that as an exhibit?

MR. TRIEF: Sure.

A. If you look in the guidelines -- this is the hepatocellular carcinoma guidelines, not the hepatitis B guidelines. Hepatitis B on

Page 1210, which is the third page of the guidelines, on the second column, the last but one, "This is not true for Asian hepatitis B carriers without cirrhosis who remain at risk for HCC" -- hepatocellular carcinoma -- "regardless of replication status."

They quote you, like, five from three or four papers, and then they go on to say other things which are even more than that, even people who lose surface antigens are at risk.

(Whereupon, an AASLD Practice Guide was marked as Plaintiff's Exhibit 2, for identification, as of this date.)

Q. I don't see any reference to that section on Page 1210 to successful treatment.

A. I don't think there's data.

Q. So, this study doesn't apply at all to patients who were successfully treated, correct?

A. No, but they're referring to patients who spontaneously got to where treated patients got to.

Q. I don't see that there.

Does it say that anywhere? I mean, is there something that says that?

A. I think there's something that says that. When you get back to Page 1210, "Similarly, the risk of hepatocellular carcinoma" -- "Similarly, the risk of hepatocellular cancer persists in long-term hepatitis B carriers from Asia" -- oh, sorry. I retract. I'm reading the wrong sentence.

Q. The question goes back to the fact that there isn't any comparison in this study of any patients who were successfully treated --

A. No, not successful treatment.

Q. You have to wait for me to finish.

A. Sorry.

Q. You would agree that there isn't anything in this study that refers at all to an analysis of what the incidence is of liver cell cancer for patients who have been successfully treated for hepatitis B, correct?

A. Not in these studies, no.

Q. Liver cancer in the general public, from an instance level, is extraordinarily low, is it not?

D. Clain, M.D.

are active hepatitis B?

A. I'm quoting you two papers, which may or may not represent it, but, yes, it's up there somewhere.

Q. You can clearly test for hepatitis B, correct?

A. Yes.

Q. I want to show you an exhibit which has been previously marked Plaintiff's Exhibit 6 at the deposition of 12/04/07.

Would you take a look at that (handing.)

A. Sure.

Q. You'll see that liver function tests were tested for.

Do you see that?

A. Yes.

Q. They were in the normal range, correct?

A. Yes.

Q. Bilirubin was tested, and that was elevated, correct?

A. Yes.

Q. What does that indicate?

A. In the context of totally normal profile liver function, probably that it is a condition

D. Clain, M.D.

known as Gilbert's syndrome or disease -- it's not really a disease -- which is an inborn error of metabolism with no significance.

Q. Would you still say that if I told you that the patient was an immigrant Asian?

A. Yes. It's a very common finding, and it's isolated. I can't prove that. I'm just looking at this. I see this in my office frequently. It's probably one in a hundred of the population.

I don't know whether it's the same incidence in Asians, but, certainly, you see it in Asians. You need other tests to prove that, but it doesn't relate to the rest of the liver function.

Q. It maybe related to hepatitis B, though, correct?

A. No, highly unlikely. To have a total bilirubin of 2.3 would imply either that you had cute hepatitis, which he doesn't have, based on the other tests, or that he had chronic liver disease with cirrhosis and that he was decompensated, which he clearly isn't.

So, the answer is no, it doesn't have

D. Clain, M.D.

anything to do with hepatitis B.

Q. Why do the other tests show that he doesn't have acute hepatitis?

A. Because if he had acute hepatitis, the AST or the ALT would be ten to 20 times higher.

Q. So, we know, at that point, that he's not acute?

A. Correct.

Q. If you look in the testing form, there's an ability to test for hepatitis B, correct? There's a listing for it.

A. Right.

Q. We know that 15 to 20 percent of immigrant Asians have active hepatitis B?

A. Right.

Q. We know he is an immigrant Asian?

A. You're right.

Q. Do you know of any reason why you would not test for hepatitis B --

MS. SHERER: Objection to the form.

Q. -- for an immigrant Asian who's applying for life insurance?

MS. SHERER: Objection to the

D. Clain, M.D.

form.

A. I could think of a reason. You know, we're talking here about the test done for life insurance, not in a medical office.

Q. Correct.

What reason could you offer? Why would you not test for it?

MS. SHERER: Objection to the form.

A. Well, first of all, I'm not an underwriter. I don't see the list.

Q. I understand?

MS. SHERER: Objection. Just please allow him to finish his answer. Thank you.

A. Medical indications for tests are the same as life insurance indications for tests, and life insurance have their own legal requirements, which I know nothing, but I understand this is not confined to hepatitis B.

But there are many other diseases involved of profiling people in order to -- I mean, I'm just talking about general knowledge about profiling people according to their